

Appl. No.: 09/841,713
Amdt. Dated: July 12, 2006
Off. Act. Dated: January 12, 2006

REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendments and discussion presented herein.

1. Allowance of Claims 8-15, 17-19 and 21-25.

The Applicant notes with appreciation the Examiner's determination that Claims 8-15, 17-19 and 21-25 are allowable.

2. Rejection of Claims 1, 3-6 under 35 U.S.C. §102(e).

Claim 1 and 3-6 were rejected under 35 U.S.C. § 102(e), as being anticipated by Tuoriniemi et al. (U.S. Pat. No. 5,978,689).

Claim 1. Claim 1 is the independent Claim within this group of claims, and was previously amended to include Claim 2.

Applicant contends that the teachings of Tuoriniemi does not disclose the selective acoustical isolation described in Claim 1, the particulars of this assertion follow.

The object of the Tuoriniemi reference is to allow switching of telephone signals to and from a user via a headset. This object can be clearly seen from the headset 10 shown in Fig. 2 which illustrates that either the microphone 16 or speakers 18, 20 are coupled to cord 34 for use by the telephone switch hook detection circuit 22. This arrangement clearly is drawn to a different purpose and does not teach amplifying and coupling the external sounds from the microphone to the speakers as described in Claim 1.

Equally problematic is that Tuoriniemi teaches that the boom microphone is a first audio signal, and that the headset is configured with first and second speaker for listening to the second or third audio signal, and NOT the first audio signal. See Abstract (third sentence); col. 3, lines 26-28; and which is also apparent from the

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figures.

In addition, it should be recognized that a boom microphone is configured for positioning at the mouth of the wearer, not the ears. The claims specifically recites the microphone attached to the earpiece, or in the amended claim to each earpiece. Refer to col. 4, lines 54-58 of Tuoriniemi which describes audio speech signals from microphone 16 being directed to the telephone during a telephone call. It should be appreciated that the microphone in the boom is oriented to the mouth of the speaker to maximize pickup of audio from the person speaking and to attenuate ambient noise, which is just the opposite of what is described for the microphone coupled to the earpiece.

Accordingly, Tuoriniemi does not teach the elements of Claim 1, and thus does not anticipate Claim 1.

Additionally, in order to expedite allowance, Applicant has amended Claim 1 to recite that a microphone is coupled to each first and second earpieces and that in response to activation of the selection circuit the audio from these microphones is directed to the audio conversion device in each first and second earpieces. This amendment further brings out the nature of selective acoustical isolation, wherein upon selection the ambient noise received from the exterior of the earpieces is reproduced by the audio conversion elements within each of the earpieces.

It should also be noted that the amendment of Claim 1 removes the timed element from the claim, this timed element aspect is now incorporated into Claim 26. However, addressing this timed aspect herein Applicant finds no description of an any equivalent timer in the reference put forth by the Examiner, specifically: col. 3, lines 19-44; col 5, lines 60-67; col. 6, lines 1-36; col 10, lines 15-35; col. 10, lines 61-67; and col. 11, lines 1-22. Applicant reads in these sections how the on-hook and off-hook of the telephone is detected to switch second or third audio signals to the speakers, but finds

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nothing of a time mechanism for deactivating the selection device; and certainly not a timed selection which changes the state a hearthrough mode - in particular since the reference does not teach nor is configured for such a hearthrough mode.

In col. 10, lines 15-35 there is mention of "*timing (delay) loops*" which are described for use in decoding the momentary on and off-hook states, but no timing mechanism for automatically deactivating the selection device after a predetermined time period as was recited in Claim 1, and now found in Claim 26. In Col. 10 lines 61-67 a time period is given for differentiating commands from a given switch, specifically: "...like pushing the momentary switch for, say 2 seconds". Col. 11, lines 1-22 continues to describe this voice command detection mode which shuts off if a voice command has not been received in a given amount of time.

Therefore, Applicant respectfully requests that the rejection of independent Claim 1, and the claims that depend therefrom, be withdrawn.

3. Amendment of Claims 1, 4 and 7.

Claim 1. Independent Claim 1 has been amended to eliminate the material which was previously included from dependent Claim 2, and to describe in greater detail the amplification of ambient noise from the exterior of each earpiece to the interior of the headsets.

A manual change in acoustic isolation is described in response to activating a selection device to improve the ability of the wearer to hear ambient sounds. Support for this element is found in the specification such as at page 4, lines 20-22.

The claim describes the incorporation of microphones on each of the earpieces. Support for this aspect is found in the specification, including page 6, lines 12-14: "Sounds from the external environment are preferably registered by a microphones, with one microphone attached, or integrated, into the exterior of each earpiece."

The signal conditioning circuit description was modified to describe a hearthrough mode in which the external sound signal received at each earpiece is

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converted to audio within each earpiece to reduce acoustic isolation and thus improve the ability of the wearer to hear ambient sounds. This is summarized at page 6, line 8 through page 7, line 6 of the specification.

Claims 4 and 7. Dependent Claims 4 and 7 were amended to maintain proper antecedent basis with amended Claim 1.

4. Cancelation of Claims 3 and 6.

Claims 3 and 6. Dependent Claims 3 and 6 were cancelled without prejudice or estoppel to maintain the same number of claims despite the addition of Claims 26 and 27.

5. Addition of Claims 26-27.

Claim 26. Dependent Claim 26 was added to reintroduce the time mechanism of original Claim 2, that was then incorporated into Claim 1.

Claim 27. Dependent Claim 27 describes the use of the selection device in combination with the use of active noise cancellation. Support for this is found in the specification, such as at page 6, lines 20-21; page 7, lines 7-16; and elsewhere.

6. Extension of Time Petition.

The Applicant has enclosed a petition for a three-month extension of time to respond to the Office Action and has enclosed the appropriate petition fee.

7. Conclusion.

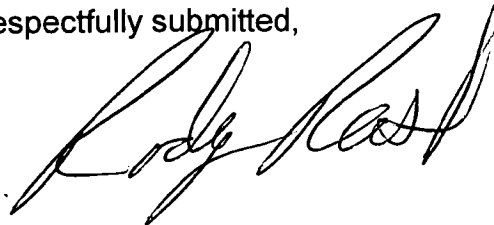
Each of these presently pending claims in this application is believed to be in immediate condition for allowance.

The Applicant respectfully requests a response/interview (email/phone) with the Examiner to clarify any issues that still exist with the allowability of these claims.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rodger Rast", written in a cursive style.

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